Applicant respectfully submits that independent claims 8 and 14 are drawn to a cutting insert, respectively, and independent claims 16 and 23 are drawn to a lathe chisel that has a cutting insert; respectively, wherein .in each of the claims, the cutting insert is defined (see claim 8, lines 4-5; see claim 14, lines 4-5; see claim 16, lines 8-9; see claim 23, lines 8-9) as having:

"**an even number plurality of spatial areas and a plurality of cutting edges between the spatial areas**".

Even though the general configuration of the bit of *Emmerich* is similar to that of the present invention, the cited reference discloses **an odd number of side faces 24** (the side faces are equivalent to the spatial areas as claimed); see Abstract of *Emmerich*; see also col. 2, lines 29-30, of *Emmerich*. Also, col. 3, lines 2-7, of *Emmerich* sets forth that there are at least five faces and preferably nine faces and that the odd number of faces provides a tip having no pairs of opposed faces 24.

The prior art reference therefore does not disclose an even number of faces and does not anticipate the invention as claimed in the independent claims 8, 14, 16, and 23.

Moreover, the cited reference clearly teaches away from using an even number of side faces. The Abstract and the text portion of col. 1, lines 38-43, set forth that:

"The odd number of side faces create an unbalanced loading on the bit when it engages the surface to be mined, excavated or cut and cause the bit to rotate within a mounting block in which the shank is rotatably received to reduce the wear on and more evenly wear the bit."

More advantages of the odd number of faces are discussed in col. 1, lines 51-67, of *Emmerich*, i.e., reduced wear; even (uniform) wear; self-sharpening action; extended service life.

It is also stressed that the odd number of faces 24 leads to the tip 2 being unbalanced at all times leading to an uneven loading of the tip 20 as it engages the surface to be machined and causing the bit to rotate (col. 3, lines 7-11). Even more importantly, the reference sets forth that it is undesirable to have an even number of faces (col. 3, lines 11-14):

"If the tip were formed with an even number of faces, each face would have an

opposed parallel face providing a balanced bit which would not rotate effectively, if at all, in use."

Therefore, the cited reference clearly teaches away from providing an even number of faces on the bit. The invention as claimed in claims 8, 14, 16, and 23 is therefore neither anticipated nor obvious in view of the cited reference.

CONCLUSION

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or **e-mail** from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on May 22, 2007,

/Gudrun E. Huckett/

Ms. Gudrun E. Huckett, Ph.D.
Patent Agent, Registration No. 35,747
Lönsstr. 59
42289 Wuppertal
GERMANY
Telephone: +49-202-257-0371
Facsimile: +49-202-257-0372
gudrun.draudt@t-online.de

GEH